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BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

HILLIE HARNED, Ph.D.
1310 Bacon Street
San Francisco, CA 94134
Psychologist License No. PSY 8460

Respondent.

Case No. W 174

OAH No. N 1999100422

DECISION AFTER NONADOPTION

Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings heard this case on May 15 and June 15, 2000, in Oakland, California.

Complainant was represented by Kerry Weisel, Deputy Attorney General.

Respondent Hillie Harned, Ph.D., was present and represented herself.

The case was submitted for decision on June 15, 2000. On July 5, 2000, Administrative Law Judge Lew issued his Proposed Decision. On July 20, 2000, the Board of Psychology nonadopted the Proposed Decision pursuant to section 11517(c) of the Government Code and ordered the transcript of the hearing. On October 4, 2000, the Board sent its Notice for Written and Oral Argument to both parties. The time for filing written argument in this matter having expired, the entire record, including the transcript of said hearing, having been read and considered by the Board, pursuant to Government Code section 11517 as well as written and oral argument on November 3, 2000, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

1. Complainant Thomas S. O'Connor is the Executive Director of the California Board of Psychology (Board). He brought this accusation solely in his official capacity.

2. At all times pertinent to this matter, Hillie Harned, Ph.D. (respondent) has held Psychologist's License No. PSY 8460 which was issued to her by the Board on January 31, 1984. The license expired on November 30, 1999.

3. On June 24, 1999, the Board issued an Order pursuant to Business and Professions Code section 820¹ requiring respondent to:

... submit to an examination or examinations to be conducted by one or more physicians specializing in substance abuse, psychiatrists, and/or psychologists. Any such physicians, psychiatrists, or psychologists shall be selected by the Board of Psychology to determine whether Hillie Harned, Ph.D. is mentally and/or physically ill to such extent as to affect her ability to practice psychology safely.

4. On July 12, 1999, respondent was interviewed and tested as part of an examination by Bruce Peltier, Ph.D., a psychologist designated by the Board. In a psychological evaluation report dated August 21, 1999, Dr. Peltier concluded that respondent was unable to practice independently at that time. His Axis I diagnoses included alcohol dependence (with physiological dependence) early full remission and dysthymic disorder (by self-report). He also diagnosed her as having antisocial traits along Axis II.

5. By Stipulation for Interim Order and Order executed by the parties on October 25, 1999, respondent agreed that she would not engage in the practice of psychology until a final decision is reached and an order issued by the California Board of Psychology in this case.

6. Professional Background. Respondent received a B.A. (Philosophy and Psychology of Language) from the University of Pittsburgh, and then completed a Ph.D. program through the Wright Institute in Berkeley. She was licensed as a psychologist in 1984. She worked between 1976 and 1988 with San Francisco Community Mental Health where she was Director of Community Outreach and Prevention Services, and

¹ Section 820 of the Business and Professions Code provides that: "[w]henver it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licensee's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licensee to be examined by one or more physicians and surgeons or psychologists designated by the agency."

Director of Training in an Asian American Community Mental Health program. The latter was a groundbreaking effort focusing upon cross-cultural issues and the provision of mental health services to those with inadequate finances.

Between 1988 and 1992 she served as the Chief Psychologist with Boyer-Marin Lodge in Woodside. This was a program for severely emotionally disturbed adults suffering from schizophrenia, borderline disorders and other serious problems. As Chief Psychologist she was part of the management team responsible for supervision and recruitment of the psychotherapy team. Between 1992 and 1998 she served as one of two chief psychologists and the Unit Coordinator at John George Psychiatric Hospital in San Leandro. This is an acute, locked psychiatric unit. In addition to supervising staff, she was involved with determination of patient legal status through the courts. She served on the medical records committee, chaired the community liaison committee and was a member of another committee responsible for developing a five-year plan for transition of the hospital from public to private status.

Respondent has also engaged in private practice in San Francisco, including psychoanalysis, psychotherapy, supervision and consultation. This ended in 1998. She is currently serving as a faculty assistant in the Magnetic Resonance Science Center, School of Medicine, University of California, San Francisco. This position does not involve any work for which a psychology license is required.

Substance Abuse History

7. Respondent came to the Board's attention when the Alameda County Medical Center terminated her employment and filed a report with the Medical Board of California under Business and Professions Code section 805.² This report reflected that the Medical Center's Medical Executive Committee had terminated respondent's

² Section 805(b) of the Business and Professions Code provides:

"The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency whenever any of the following actions are taken as a result of a determination of a peer review body:

- (1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.
- (2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.
- (3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

employment on July 9, 1998, and had summarily suspended her clinical privileges on July 15, 1998. The articulated reasons for this action were that she had failed on a series of occasions to report to work when scheduled to do so, that she was observed on several occasions when on duty to have indicators that she had consumed alcohol, that she had admitted to having alcohol problems and that she had enrolled in a residential alcohol detoxification program. The Committee's action was apparently precipitated by her failure to report to work on July 6, 1998, and her subsequently advising the Medical Center's Department of Psychiatry that she was enrolled in the detoxification program.

8. Respondent comes from a family with a history of alcoholism. She married at age 38 and, gradually over a period of ten years, began drinking more and more vodka. By April 1998 she was drinking a pint a day. In the spring of 1998 her husband went into a two-month coma. By her own account her alcoholism became "totally out of control." It made her feel better when she was drinking and she characterizes herself at that time as being a maintenance drinker. Her husband eventually recovered and she believes that they now have a very close supportive relationship.

Some time after July 1998 she admitted herself to Mills Peninsula Hospital for a twelve-day detoxification program. She also attended a twenty-eight day program in Calistoga that she describes as a very structured and intense program. This was followed by residency in a halfway house where she received supportive treatment for two and a half months. She returned home in November 1998.

Issues arose regarding her care of her husband. Her husband's family accused her of abandoning him, and this added familial pressure contributed to her relapsing over this period. She voluntarily entered another twenty-eight day program through Henry Ohloff House in San Francisco, and completed the program in January 1999.

9. Respondent was involved in a collision with a parked car over this period and was convicted for driving under the influence. She was also arrested twice on domestic violence charges. In August 1998, while drunk, she started a physical fight with her husband. And in spring 1999, during an alcohol induced blackout, she was arrested again for domestic violence (throwing a telephone). She has no history of violence when she is not under the influence of alcohol.

10. Since residing at the Henry Ohloff House respondent has continued to reside in different clean and sober residences. October 1999 was her last relapse. At that time she entered into a six-month residential program through Gracenter, a program

In addition to the duty to report as set forth in paragraphs (1), (2), and (3), the peer review body also has a duty to report under this section a licentiate's resignation or leave of absence from membership, staff, or employment following notice of an impending investigation based on information indicating medical disciplinary cause or reason."

run by Sisters of the Good Shepherd in San Francisco. She completed this program on May 26, 2000.

Her program at Gracenter included individual therapy with a counselor, Sonia Isaza. Over the first ninety days she received individual counseling, addiction education, co-dependency and relapse prevention therapy. The second ninety days focused on reentry, with ongoing relapse prevention therapy, sponsorship in 12-step meetings and ongoing 12-step work. She spent three to four hours a day in specific treatment, either group or individual counseling. Beyond the structured program and classes, interaction with peers was encouraged and viewed as part of the therapeutic environment. Respondent was involved in 12-step activities between five and seven days a week. A very important part of her program was the identification of relapse triggers. Respondent recognizes that her impulsivity is an issue, and she has worked hard to identify those factors that have led to problems in the past, and to develop internal strategies to maintain a healthy emotional balance. According to the program director, Susan Elizabeth King, respondent had a very successful treatment episode at Gracenter. Respondent continues to be a supporter of Gracenter and calls in frequently to speak to Ms. King or to the program administrator. She also provides aid to women currently in treatment.

Respondent continues to reside in a clean and sober residence, to participate frequently in AA meetings and to meet with Sonia Isaza for individual therapy.

11. Bruce Peltier, Ph.D., interviewed and tested respondent on July 12, 1999. She had been referred to him by the Board to assess her judgment and ability to function independently as a psychologist with safety to the public, and to determine whether she had a current substance abuse problem. Based upon his diagnoses (Finding 4) he concluded that she was unable to practice independently at that time.

Dr. Peltier noted:

Monitoring and blood-alcohol testing are recommended. Such controls should be frequent at first and less frequent as she continues rehabilitation. Some form of monitoring is recommended on a long-term basis if she is going to return to independent practice. It is my understanding that she is taking antidepressant medication, and any plan for future practice should consider this need.

Dr. Peltier was present at hearing to observe respondent and to consider her testimony. He opines that she is currently able to practice psychology safely as long as she continues with her current rehabilitation program. He believes that she is always going to have to vigilantly guard against relapse, and that she apparently has given much attention and thought to this matter. With regard to her expertise and ability to practice

clinical psychology, he suggests that, if anything, her abilities have been strengthened by this experience.

12. Dr. Peltier's reaction to the steps that she has taken is very positive. He notes that although the process she has gone through has been a struggle, she has stayed with it. He is satisfied that issues regarding her husband's family have been clarified and addressed. Her treatment program has also addressed earlier concerns, and he therefore has no reservations about her ability to practice safely, or with regard to her judgment, as long as she maintains her sobriety.

In terms of restrictions upon her license, he recommends that she be subjected to random chemical testing, periodic and not oppressive. And that there be ongoing monitoring by a supervisor to provide accountability and to check against any possibility of relapse. He also suggests ongoing contact with her AA sponsor or mentor, and that all the above restrictions be in place for a period between three and five years.

13. Complainant is not seeking revocation or suspension of respondent's psychology license. The parties agree that probation would be appropriate with conditions including monitoring of respondent's practice, continuation of psychotherapy, random tests for alcohol and attendance at 12-step meetings.

14. The parties disagree about whether respondent should be permitted to supervise trainees and/or others who are providing psychological services. Complainant contends that psychologists making application to supervise psychological assistants, interns or trainees must not be on probationary status, and that any trainees seeking credit for hours supervised by a probationer would not receive such credit.

Respondent believes she should be allowed to supervise others while on probation. She describes a longstanding history of providing therapy in community mental health settings that have "intensively involved group and individual supervision." She avers that the range and length of her experience as a psychologist makes her a very valuable supervisor, and she further points to past positions in which she served as Director of Training, Chief Psychologist and Co-chief Psychologist. (See Finding 6.) Although respondent poses no danger to the public were she to supervise others, her doing so would compromise the ability of trainees, interns or psychological assistants to obtain credit for hours worked under her supervision. Any supervision she provides should therefore be restricted to that over psychologists and other personnel performing psychological services for which hourly credit is not sought.

15. Respondent also requests that any probationary period run from the time that she entered the six-month treatment program through Gracenter in November 1999. She notes that she voluntarily refrained from practice and she believes that this aspect of her responsible behavior should be taken into account.

16. The following costs were incurred by the Board of Psychology in connection with the prosecution of this case:

Medical Board Investigative Services:

<u>Fiscal Year</u>	<u>No. of Hours</u>	<u>Hourly Rate</u>	<u>Charges</u>
1998-1999	13.75	\$86.35	\$1,187.31
1999-2000	4.50	\$81.92	327.68
Miscellaneous Expense Items:			<u>23.27</u>
			\$1,538.26

Attorney General:

<u>Fiscal Year</u>	<u>No. of Hours</u>	<u>Hourly Rate</u>	<u>Charges</u>
1999-2000	84.00	\$100	\$8,400.00
1998-1999	9.75	\$100	<u>975.00</u>
			\$9,375.00

Attorney General hours included initial case evaluation (4.00), research (1.50), pleading preparation (29.00), witness-related preparation (22.25), document preparation (5.50) and settlement (31.50).

The parties agree that expert reviewer services are not to be charged to respondent.

Total Investigative Services and Attorney General costs are \$10,913.26. Such are determined to be reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code section 822 provides that:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

2. Cause for placing respondent on probation under Business and Professions Code section 822 exists, by reason of the matters set forth in Findings 7 through 12.

3. Respondent may work in a supervisory capacity as long as she is not supervising psychological assistants, interns or trainees who are also seeking credit for supervised professional experience. Title 16 California Code of Regulations section 1387.3 outlines the qualifications for those making application to supervise these individuals. It provides that:

Any person making application to supervise shall meet the following criteria. The applicant must:

(a) Be a licensed psychologist or a board certified psychiatrist. (Effective July 1, 1995, the psychologist must have not less than three years' professional post-licensure experience.)

OR

(b) For supervision to be provided under regulation section 1387(o)(2), be a board eligible or board-certified psychiatrist, an educational psychologist, a clinical social worker, or other licensed mental health professional. (Effective July 1, 1995, the applicant must be a board certified psychiatrist or a licensed mental health professional with not less than three years' professional post-certification or post-licensure experience.)

(c) Be in compliance with the provisions of the Psychology License Law and the Medical Practice Act and the regulations adopted pursuant thereto.

(d) *Have no accusation pending against his or her license, and not be on probationary status.*

(e) Have no familial or interpersonal relationship with the supervisee.

(Emphasis added.)

4. This regulation governs qualifications for psychologists who are seeking to supervise individuals who will later be applying for licensure themselves. Supervising psychologists are responsible for insuring that the extent, kind, and quality of the psychological services the psychological assistant performs are consistent with his or her training and experience. (Bus. & Prof. Code, § 2913, subd. (c).) It is derivative of the statute setting forth requirements for initial licensure. Thus, subdivision (c) of section 2914 of the Business and Professions Code provides that applicants for licensure must:

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, *the specific requirements of which shall be defined by the board in its*

regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. ...

The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis. (Emphasis added.)

5. Accordingly, respondent must comply with the Board's standard probationary condition restricting her ability to supervise individuals who are also seeking credit for hours counting towards supervised professional experience. However, respondent may supervise psychologists and other employees who are providing psychological services so long as such individuals are not also seeking credit for supervised professional experience.

6. Respondent's probation should not be retroactive to November 1999. Her entry into the six-month treatment program and her decision to voluntarily refrain from practice are factors to be considered in determining the term of probation. Per Dr. Peltier's recommendation, and taking into account respondent's very substantial progress to date, a reasonable term of probation would be four (4) years in this case.

7. Under Business and Professions Code section 125.3 the Board may request an order directing a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Such are determined to be \$10,913.26 in this case by reason of the matters set forth in Finding 16. Respondent should make arrangements directly with the Board regarding manner and schedule of payment. However, the cost recovery amount is reduced to \$7,500.

ORDER

Psychologist's License No. PSY 8460 issued to respondent Hillie Harned, Ph.D., is revoked. However, the revocation is stayed and respondent is placed on probation for four (4) years under the following terms and conditions:

1. Practice Monitor/Billing Monitor

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval, the name and qualifications of a psychologist who has agreed to serve as a practice monitor/billing monitor. The monitor shall 1) be a California-licensed psychologist with a clear and current license; 2) have no prior business, professional, personal or other relationship with respondent; and 3) not be

the same person as respondent's therapist. The monitor's education and experience shall be in the same field of practice as that of the respondent.

Once approved, the monitor shall submit to the Board or its designee a plan by which respondent's practice shall be monitored. Monitoring shall consist of a least one hour per week of individual face-to-face meetings and shall continue during the entire probationary period. The respondent shall provide the monitor with a copy of this Decision and access to respondent's fiscal and/or patient records. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to divulge any information that the Board may request. It shall be respondent's responsibility to assure that the monitor submits written reports to the Board or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of respondent's performance.

Respondent shall notify all current and potential patients of any term or condition of probation which will affect their therapy or the confidentiality of their records (such as this condition which requires a practice monitor/billing monitor). Such notifications shall be signed by each patient prior to continuing or commencing treatment.

If the monitor quits or is otherwise no longer available, respondent shall obtain approval from the Board for a new monitor within 30 days. If no new monitor is approved within 30 days, respondent shall not practice until a new monitor has been approved by the Board or its designee. During this period of non-practice, probation will be tolled and any period of non-practice shall not apply to the reduction of this probationary period. Respondent shall pay all costs associated with this monitoring requirement. Failure to pay these costs shall be considered a violation of probation.

2. Examination

Respondent shall take the next regularly scheduled jurisprudence examination, and if respondent fails such examination, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within 30 days and shall not resume practice until the re-examination has been successfully passed, as evidenced by written notice to respondent from the Board or its designee. During this period of non-practice, probation is tolled and this period of non-practice will not apply to the reduction of this probationary period. The oral examination is given in

January and June each year. It is respondent's responsibility to contact the Board in writing to make arrangements for such examination. Respondent shall pay the established examination fee.

3. Ongoing Treatment Program

Respondent shall participate in on-going treatment and/or out-patient treatment such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment; and/or attend Twelve-Step meetings or the equivalent as approved by the Board or its designee at least once a week during the first year of probation. Respondent shall provide documentation of attendance at Twelve-Step meetings or the equivalent on a quarterly basis to the Board or its designee.

All expenses associated with the treatment shall be paid by respondent.

4. Abstain from All Non-Prescribed, Controlled Drugs and Alcohol and Submit to Tests and Samples

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by section 4211 of the Business and Professions Code, or any drugs requiring a prescription unless respondent provides the Board or its designee with documentation from the treating physician and surgeon that the prescription was legitimately issued and is a necessary part of the treatment of respondent. Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall undergo random, biological fluid testing as determined by the Board or its designee. Any confirmed positive finding will be considered a violation of probation. Respondent shall pay all costs associated with such testing. The length of time and frequency of this testing condition will be determined by the Board or its designee.

5. Drugs - Exception for Personal Illness

Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a physician and surgeon. Respondent shall provide the Board or its designee with written documentation from the treating physician and surgeon who prescribed medication(s).

6. Coursework

Respondent shall take and successfully complete coursework each year of probation as designated and pre-approved by the Board or its designee. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study coursework shall not count toward meeting this requirement. The coursework must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a plan for meeting the educational requirements. All costs of the coursework shall be paid by the respondent.

7. Ethics Course

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a course in laws and ethics as they relate to the practice of psychology. Said course must be successfully completed at an accredited educational institution or through a provider approved by the Board's accreditation agency for continuing education credit. Said course must be taken and completed within one year from the effective date of this Decision. The cost associated with the law and ethics course shall be paid by the respondent.

8. Investigation/Enforcement Cost Recovery

Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$7,5000. Such costs shall be payable to the Board of Psychology on a monthly bases as approved by the Board . Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs.

9. Probation Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year (July 1 - June 30). Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay probation monitoring costs.

10. Obey All Laws

Respondent shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence.

11. Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

12. Probation Compliance

Respondent shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned District Office of the Medical Board of California or other designated probation monitor. Respondent shall contact the assigned probation officer regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert evaluators.

13. Interview with Board or Its Designee

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

14. Changes of Employment

Respondent shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and address within 30 days of such change.

15. Tolling for Out-of-State Practice, Residence or In-State Non-Practice

In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing

psychology in California, respondent shall notify the Board or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in sections 2902 and 2903 of the Business and Professions Code. Periods of temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period, although the Board may allow respondent to complete certain terms of probation that are not associated with active practice.

16. Employment and Supervision of Trainees

Respondent shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisory relationship in existence on the effective date of this probation shall be terminated by respondent and/or the Board. This does not preclude respondent from providing direction or consultation to psychological assistants, interns or trainees while performing the duties of a licensed psychologist.

17. Future Registration or Licensure

If respondent is registered as a psychological assistant or registered psychologist and subsequently obtains other psychological assistant or registered psychologist registrations or becomes licensed as a psychologist during the course of this probationary order, respondent agrees that this Decision shall remain in full force and effect until the probationary period is successfully terminated. Future registrations or licensure shall not be approved, however, until respondent is currently in compliance with all of the terms and conditions of probation.

18. Violation of Probation

If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

19. Completion of Probation

Upon successful completion of probation, respondent's license shall be fully restored.

IT IS SO ORDERED.

The effective date of this decision is January 12, 2001.

DATED: December 13, 2000

BOARD OF PSYCHOLOGY

By: M.R. Greenberg
Martin Greenberg, Ph.D.
President

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation
against:

Harned, Hillie, Ph.D.

No. : W-174

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Hillie Harned, Ph.D.
1310 Bacon Street
San Francisco, CA 94134

7099 3400 0002 4471 5463

Hillie Harned, Ph.D.
1035 Haight Street
San Francisco, CA 94117


7099 3400 0002 4471 5432

Isa Rodriguez
Office of the Attorney General
2550 Mariposa Mall, Room 5090
Fresno, CA 93721

Catherine Frink, Administrative Law Judge
Office of Administrative Hearings
560 J Street, Ste. 300
Sacramento, CA 95814

Each said envelope was then on, December 13, 2000, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, December 13, 2000, at Sacramento, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Analyst

B

1 BILL LOCKYER, Attorney General
of the State of California
2 KERRY WEISEL, State Bar No. 127522
Deputy Attorney General
3 1515 Clay Street
Oakland, California 94612
4 Telephone: (510) 622-2145
Fax: (510) 622-2270

5 Attorneys for Complainant
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7

8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against)	Case No. W174
12 HILLIE HARNED, Ph.D.)	
13 3635 23rd Street)	
13 San Francisco, California 94110)	<u>ACCUSATION</u>
14 Psychologist's License No. PSY 8460)	
15 Respondent.)	

16
17
18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Thomas S. O'Connor, is the Executive Officer of the
21 California Board of Psychology ("Board of Psychology" or "board") and brings this
22 accusation solely in his official capacity.

23 2. At all times material, respondent Hillie Harned, Ph.D. ("respondent")
24 has held Psychologist's License No. PSY 8460 which was issued to her by the board on or
25 about January 31, 1984. Unless renewed, the license will expire on November 30, 1999.

26 **JURISDICTION**

27 3. This accusation is brought before the Board of Psychology, Department

1 of Consumer Affairs, under the authority of the following sections of the California Business
2 and Professions Code ("Code").

3 4. Section 820 of the Business and Professions Code provides that

4 "Whenever it appears that any person holding a license, certificate or
5 permit under this division or under any initiative act referred to in this division
6 may be unable to practice his or her profession safely because the licentiate's
7 ability to practice is impaired due to mental illness, or physical illness
8 affecting competency, the licensing agency may order the licentiate to be
9 examined by one or more physicians and surgeons or psychologists designated
10 by the agency. The report of the examiners shall be made available to the
11 licentiate and may be received as direct evidence in proceedings conducted
12 pursuant to Section 822."

13 5. Section 822 of the Code provides, in pertinent part, that

14 "If a licensing agency determines that its licentiate's ability to practice his or
15 her profession safely is impaired because the licentiate is mentally ill, or physically ill
16 affecting competency, the licensing agency may take action by any one of the
17 following methods:

18 "(a) Revoking the licentiate's certificate or license.

19 "(b) Suspending the licentiate's right to practice.

20 "(c) Placing the licentiate on probation.

21 "(d) Taking such other action in relation to the licentiate as the licensing
22 agency in its discretion deems proper."

23 The licensing agency shall not reinstate a revoked or suspended certificate or license until it
24 has received competent evidence of the absence or control of the condition which caused its
25 action and until it is satisfied that with due regard for the public health and safety the
26 person's right to practice his or her profession may be safely reinstated.

27 6. Business and Professions Code section 125.3 provides, in pertinent

1 part, that in any order issued in resolution of a disciplinary proceeding before any board
2 within the California Department of Consumer Affairs, the board may request the
3 administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 7. Business and Professions Code section 2962.6 provides that "[a]n
7 administrative disciplinary decision that imposes terms of probation may include, among
8 other things, a requirement that the licensee who is being placed on probation pay the
9 monetary costs associated with monitoring the probation."

10 FACTS

11 8. At all times relevant to this matter, respondent practiced as a
12 psychologist for the Alameda County Medical Center ("Medical Center") until the Medical
13 Center terminated her employment and she ceased to practice psychology.

14 9. On or about July 27, 1998, the Medical Center filed a report with the
15 Medical Board of California under Business and Professions Code section 805 ("805
16 report"). This report reflected that the Medical Center's Medical Executive Committee
17 ("MEC") had terminated Dr. Harned's employment on July 9, 1998 and summarily
18 suspended her clinical privileges on July 15, 1998. The report stated that these actions were
19 based on the following:

20 A. Dr. Harned failed on a series of occasions to report to work when scheduled to
21 do so;

22 B. Dr. Harned was observed on several occasions when on duty to have
23 indicators that she had consumed alcohol;

24 C. Dr. Harned admitted that she had a problem with alcohol;

25 D. Dr. Harned reported that she had attended a drug detoxification program from
26 June 6, 1998 through June 12, 1998 and had enrolled in a drug detoxification,
27 rehabilitation, and aftercare program on or about June 29, 1998;

1 E. Dr. Harned failed to report to work on July 6, 1998 and failed to contact her
2 supervisors to explain her absence even though she met with Medical Center
3 supervisory staff on July 2, 1998 and agreed to return to clinical duties on July 6,
4 1998 under terms and conditions which included complete abstinence from alcohol
5 and continued involvement in the rehabilitation program;

6 F. On July 13, 1998, Dr. Harned advised the acting chair of the Medical Center's
7 Department of Psychiatry that she was enrolled in a residential alcohol detoxification
8 program.

9 10. On or about July 17, 1998, the Medical Center notified Dr. Harned by
10 mail that it had summarily suspended her clinical privileges to protect the well-being of its
11 patients, advised her that it was commencing a formal investigation of the matters which had
12 prompted the summary suspension, and offered her the opportunity to provide written
13 information to the MEC and to attend the MEC's August 19, 1998 meeting to make a
14 statement concerning the issues under investigation. Dr. Harned did not respond.

15 11. The MEC appointed an ad hoc committee to conduct an investigation of
16 Dr. Harned's ability to practice psychology and to make recommendations to the MEC
17 concerning Dr. Harned's future association with the Medical Center.

18 12. The ad hoc committee recommended that Dr. Harned's clinical
19 privileges and staff membership be suspended for a minimum of six months and her
20 reinstatement and continued practice be subject to various terms and conditions including,
21 among other things, her complete abstinence from alcohol, completion of an in-patient
22 substance abuse program, and continuing participation in an out-patient substance abuse
23 program.

24 13. The MEC met to consider the ad hoc committee's recommendations on
25 August 19, 1998. Dr. Harned neither attended the meeting nor provided the MEC with a
26 written explanation. The MEC voted to adopt the recommendations.

27 14. On or about September 16, 1998, the Medical Center filed a second

1 805 report with the Medical Board concerning Dr. Harned. This report reflected that the
2 MEC had placed various restrictions on Dr. Harned's staff privileges, membership, and
3 employment on August 19, 1998 and was accompanied by a copy of the recommendations
4 adopted by the MEC.

5 15. On or about February 23, 1999, a Medical Board investigator sent a
6 letter to Dr. Harned at her address of record asking her to telephone him to schedule an
7 interview to discuss her suspension from the Medical Center's medical staff. Dr. Harned did
8 not respond.

9 16. On or about March 18, 1999, the Medical Board investigator sent a
10 letter to Dr. Harned at her address of record by certified mail asking her to contact him to
11 schedule an interview to discuss her suspension and whether or not she would be willing to
12 sign a voluntary agreement for a mental status examination. Dr. Harned did not respond.
13 The letter was returned as unclaimed.

14 17. On or about April 29, 1999, the Alameda County Medical Center's 805
15 reports and other documents reflecting the facts set out above were forwarded for review to
16 peer expert Bruce Peltier, Ph.D.

17 18. On or about May 13, 1999, Dr. Peltier submitted a report to the board.
18 He noted that Dr. Harned "acknowledges a drinking problem, has demonstrated the
19 behavioral manifestations of that problem, has no-showed for professional commitments, and
20 appears to have failed rehabilitation at least once," and that she was unwilling or unable to
21 function under the conditions required for her resumption of employment after she had
22 agreed to the conditions. Dr. Peltier concluded that Dr. Harned's "reported behavior
23 demonstrates that it cannot be assumed that she is able to competently and independently
24 practice psychology at the present time."

25 19. These findings raised concerns that respondent might be unable to
26 practice her profession safely because of impairment due to mental illness. The board's
27 executive officer therefore filed a Petition on June 15, 1999 for an Order for Psychiatric and

1 Physical Examinations of respondent pursuant to Business and Professions Code section 820.

2 20. On June 24, 1999, the board issued an Order for Psychiatric and
3 Physical Examinations of respondent.

4 21. On July 12, 1999, respondent was examined by a psychologist
5 designated by the Board of Psychology.

6 22. On or about August 21, 1999, the psychologist, Bruce Peltier, Ph.D.,
7 prepared a report for the Board of Psychology in which he set out his finding that respondent
8 cannot safely practice psychology independently.^{1/}

9 23. Dr. Peltier reported to the board as follows:

10 ". . . . Dr. Harned is unable to practice independently at this time. . . . The matter
11 of antisocial qualities of her personality are of some concern, and it is likely that they
12 will be problematic in the future if she drinks or uses drugs which are not prescribed.
13 The matter of her impulsivity and impulse control is important, and it should be
14 addressed in her rehabilitation and therapy. Test results imply that her difficulties in
15 impulse control are not simply situational, and that they must be monitored (either by
16 her or by someone else or both). ¶ Monitoring and blood-alcohol testing are
17 recommended. Such controls should be frequent at first and less frequent as she
18 continues rehabilitation. Some form of monitoring is recommended on a long-term
19 basis if she is going to return to independent practice. . . ."

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Mental Illness)

22 24. Respondent is subject to disciplinary action pursuant to section 822 in
23 that her ability to practice her profession safely is impaired because she is mentally ill and
24 her illness affects her competency as more particularly alleged in paragraphs 3 through 23,
25 above.

26 //

27 1. The psychiatric report has been provided to respondent.

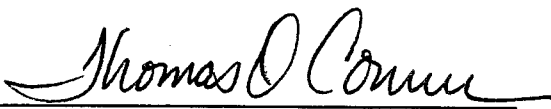
1 WHEREFORE, complainant requests that a hearing be held on the matters
2 alleged above, and that following the hearing, the board issue a decision:

3 1. Revoking or suspending Psychologist's License No. PSY 8460 issued to
4 respondent Hillie Harned, Ph.D.;

5 2. Ordering respondent to pay the board the actual and reasonable costs of
6 the investigation and enforcement of this case and, if placed on probation, the costs of
7 probation monitoring; and

8 3. Taking such other and further action as the board deems necessary and
9 proper.

10 Dated: September 21, 1999

11 
12 THOMAS S. O'CONNOR, Executive Officer
13 Board of Psychology

14 Complainant
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DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation
Against:

Hillie Harned, Ph.D.

No. : W174

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Sacramento, California 95825. I served a true copy of the attached:

STATEMENT TO RESPONDENT; ACCUSATION; GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7; NOTICE OF DEFENSE (2 COPIES); REQUEST FOR DISCOVERY AND DISCIPLINARY GUIDELINES

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

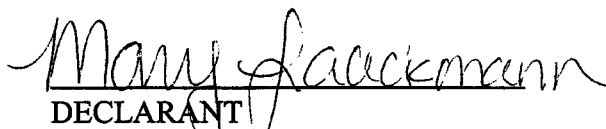
Hillie Harned, Ph.D.
3635 23rd Street
Oakland, CA 94110

Z 436 004 585

Kerry Weisel
Deputy Attorney General
1515 Clay Street
Oakland, CA 94612

Each said envelope was then, on September 21, 1999, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, September 21, 1999, at Sacramento, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Technician